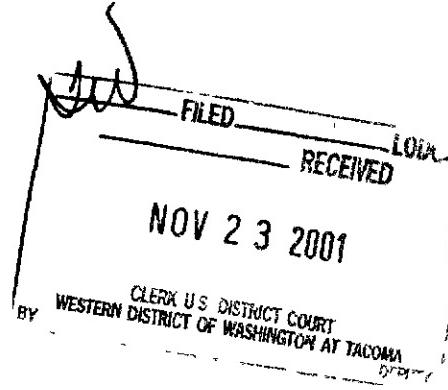


On the date below, I send by courier/depot mail in the U.S. Mails postage pre-paid, an envelope addressed to the attorney of record of Defendants containing a copy of the document to which this declaration is affixed.

I declare, under penalty of perjury to the laws of the State of Washington that the foregoing is true and correct.

M. Hulberg

Nov 21, 2001



CV 00-05626 #00000077

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

11 DANETTE HALL,

12 Plaintiff,

13 vs

14 KIDDE, INC., a Corporation,
15 LEHEL CORPORATION,
16 ELECTROLUX CORPORATION,
ELECTROLUX, L.L.C. and
ELECTROLUX LEHEL CORPORATION,

17 Defendants.

} NO. C00-5626(RJB)JKA

} PLAINTIFF'S PRETRIAL STATEMENT

18 Comes now Plaintiff, by and through her attorney, Donald L. English, and submits Plaintiff's
19 Pretrial Statement.

20 1 FEDERAL JURISDICTION

21 This matter was transferred from Clark County Superior Court to the United States
22 District Court, Western District of Washington at Tacoma, at the request of Defendants Lehel
23 Corporation, Electrolux Corporation, and Electrolux Lehel Corporation alleging the application
24 of 28 U.S.C. §§1332 and 1441, with the amount of controversy exceeding the value of
25

26 PLAINTIFF'S PRETRIAL STATEMENT

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1 \$75,000 00

2 **CLAIM FOR RELIEF AT TRIAL**

3 Plaintiff intends to pursue a claim against Defendant Kidde, Inc., that Defendant Kidde,
4 Inc. is liable to Plaintiff as a product seller under RCW 7.72.040(2)(e) because the cream
5 whipper in question was sold under the trade name or brand name of the product seller.
6

7 Plaintiff's claim includes the allegation that the product in question was not reasonably
8 safe as designed or reasonably safe because inadequate warnings or instructions were not
9 provided with the product and the product was not reasonably safe in construction
10

11 Plaintiff was injured during her operation of the product and has been damaged.

12 **3. RELEVANT FACTS ABOUT WHICH PLAINTIFF ASSERTS**

13 **THERE IS NO DISPUTE AND WHICH PLAINTIFF IS PREPARED TO ADMIT**

14 On or about September 8, 1997, Plaintiff was an employee of OJA's market in
15 Vancouver, Washington.

16 On that date, Plaintiff was preparing fresh whipped cream to be used in the deli section of
17 the market. During the normal operation of the whipped cream maker, which had previously
18 been used by Plaintiff on numerous occasions, the whipped cream maker exploded into
19 Plaintiff's face.

21 Plaintiff was taken by ambulance to Southwest Washington Medical Center for initial
22 treatment where she was treated by Stanley L. Crews, M.D.

23 Plaintiff was subsequently treated by Dr. Crews and by Richard F. Dreyer, M.D., who
24 performed surgery on Plaintiff, initially in November of 1997, with follow up surgery conducted
25 by Dr. Dreyer on February 5, 1998.

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1 Plaintiff Danette Hall is legally blind in her right eye, though she has peripheral vision
 2 present. She has extensive macular damage which is the reason for the legal blindness status in
 3 her right eye. She is currently at risk for progression of a cataract in her right eye in the future
 4 and there is also a continuing risk for glaucoma in either eye from her blunt trauma.
 5

6 Plaintiff has incurred special damages for medical expenses in the sum of \$21,281.28,
 7 and has sustained wage loss from the date of the accident until allowed to return to work on
 8 September 18, 1998. Plaintiff therefore incurred wage loss at the rate of \$8.00 per hour for the
 9 subsequent fifty-three (53) weeks totaling \$16,960.00.

10 **4. PLAINTIFF'S FACTUAL CONTENTIONS**

11 Plaintiff contends that Defendant Kidde, Inc. distributed the product which injured the
 12 Plaintiff. The Plaintiff further contends that the product was distributed under the trade name or
 13 brand name of the Defendant, namely, "Kidde Cream whipper."

14 Plaintiff contends that the product in question came into the possession of Plaintiff's
 15 employer where it was used by Plaintiff's employer in the commercial deli portion of their store
 16 until the time the product malfunctioned and injured Plaintiff.

17 Plaintiff's representative subsequently obtained the cream whipper involved in the
 18 accident from Plaintiff's employer, along with a one page document containing instructions and a
 19 parts list for the Kidde Model No. 5 Cream whipper.

20 Plaintiff subsequently obtained an opinion from Engineer Wayne Slagle that the charger
 21 holder of the whipped cream maker was not reasonably safe to be used as designed and that the
 22 manufacturer did not provide adequate warnings on the charger holder.

23 **5. ISSUES OF LAW**

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1
2
3 **6. NAMES AND ADDRESSES OF WITNESSES**
4

5 1 Stanley L. Crews, M D , 12306 SE Mill Plain Blvd , Vancouver, WA 98684 (will
6 testify by deposition). The substance of Dr Crews' testimony is expected to be the medical
7 treatment of Plaintiff, including the reasonableness and necessity of the medical expenses
8 incurred, as well as Plaintiff's prognosis.

9 2. Plaintiff Danette Hall, 4119 NE St. Johns #10, Vancouver, WA 98661 (Plaintiff
10 will testify) Plaintiff's testimony will be as to her use of the product in question as well as her
11 injuries and damages

12 3 Wayne Slagle, 7 SE 97th Avenue, Portland, OR 97216-2498 (Mr Slagle will
13 testify) His testimony will be as to his opinion regarding the unsafe nature of the cream whipper
14 in question and the lack of appropriate warnings

15 4. James Wessels, Bear Creek Corporation, Medford, Oregon. (Mr Wessels will
16 testify) Mr Wessels' testimony will be that he is the individual who picked up the broken
17 cream whipper and the instruction sheet from Plaintiff's employer Mr. Wessels also purchased,
18 at counsel's request , a second cream whipper for comparison with the broken cream whipper.

19 5. Sheri Wogan, present address unknown (Will testify) Ms. Wogan's testimony
20 would be in regard to Plaintiff's work habits and the cream whippers used in the store during the
21 course of her employment at OJA's market.

22 6 Archie Wilkins, present address unknown . (May testify). Present testimony of
23 Archie Wilkins, Assistant Manager of the store, would consist of testimony regarding Plaintiff's
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1 work habits and the knowledge of the cream whippers used in the store during the time he was
2 employed at OJA's market

3 7. Darius Taylor, current address unknown (May testify). Mr Taylor's testimony
4 would address the pain, suffering and disability suffered by plaintiff

5 8. Joseph Robinson, current address unknown. (May testify). Mr Robinson's
6 testimony would address the pain, suffering and disability suffered by plaintiff.

7 9. Jane Valencia , 4617 NE St Johns #B204, Vancouver, WA (Will testify).
8 Testimony will address the pain, suffering and disability suffered by plaintiff

9

10

11 **7. LIST OF EXHIBITS WHICH WILL BE OFFERED**
12 **BY PLAINTIFF AT THE TIME OF TRIAL**

13 1. Broken cream whipper involved in the accident
14 2. Second cream whipper purchased by Plaintiff's representative with a sticker on the
15 box identifying the product as a Kiddie Cream whippet

16 3. Instruction sheet and parts list for Kidde Cream whipper Model No 5.
17 4. Six photographs of Plaintiff following her injury demonstrating the injuries to her
18 person

19 5. Four photographs showing the whipped cream maker involved in the accident as it
20 appeared when picked up by Plaintiff's representative.

21 6 One photograph of the second whipped cream maker purchased by Plaintiff's
22 representative

23 7. Billing from AMR ambulance company in the sum of \$700.86.

24

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- 1 8. Billing from Legacy Good Samaritan Hospital in the sum of \$9,340.50
- 2 9. Billing from Southwest Washington Medical Center in the sum of \$2,883.19
- 3 10. Billing from Stanley L. Crews, M.D. in the sum of \$2,132.00
- 4 11. Billing from Dreyers Eye Care Clinic in the sum of \$5,319.00.
- 5 12. Billing from Oregon Anesthesia in the sum of \$1,281.00.
- 6 13. Billing from Vancouver Radiology in the sum of \$173.00
- 7 14. Operative report from Richard F. Dreyer, M.D. dated November 13, 1997
- 8 15. Operative report from Richard F. Dreyer, M.D. dated February 5, 1998
- 9 16. Narrative report from Stanley L. Crews, M.D. dated August 26, 1999.
- 10 17. Blueprint type design for the Walter Kidde Co., Inc. carton of the Model No. 5
11 cream whipper
- 12 18. Blueprint type drawing for the cream whipper assembly Model No. 5 and list for
13 spare parts identification.
- 14 19. Blueprint type drawing from Walter Kidde Co., Inc. for cream whipper Model No
15 5.
- 16 20. Identification sheet for Kidde Whippet Co., Inc. charger and dispenser.
- 17 21. Blueprint type drawing for the Walter Kidde Co., Inc. cartridge holder - tube
18 extractor.
- 19 22. Walter Kidde Co., Inc. blueprint type drawing for the Walter Kidde Co., Inc. pin
20 holder
- 21 23. Walter Kidde Co., Inc. blueprint type drawing for the cream whipper holder seal
- 22 24. Walter Kidde Co., Inc. blueprint type drawing for the assembly and disassembly

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